Preserve

1908

(Courts)

File No. 28 of 07

Serial Nos. 1 to 13

Previous references.

Jud. Secretary 96.
Courts 325 of 04.

Later references.

319 of 07 S.S. 1 & 2 B July 08.
Ch 15-1-09-1 & 2
Jud 282-16 (1-3)
" 302-21 (1-5)
Ch 38-09 (1-9)
H gh 3A 56 8, 10-12

GENERAL AND REVENUE SECRETARIAT.

S.H.A. 326-32 (1-2)

M/J 221-32 S.S. 1-2
Ch 104-41 (1-2)
" 188-41 (1-2)

Serial Nos. 1-13 and 13.

Part B. for April 08

SUBJECT.

Travelling allowance and batta to witnesses from outside the State, in Criminal cases.

Table of Contents.

1 From the Registrar, Chief Court No 400/23 of 15-7-07
Request that on account of the difficulty in securing the attendance of witnesses from outside the State in Criminal cases, allowance may be given in Session trials

2. To the I.G. of Police No 1455 of 7-8-07
Requests him to furnish his opinion on the above.

3. To the Dy. Commrs. of all Districts No 416-63 of 9-8-07
Requests them to furnish their opinions on the proposal by the Chief Court.

G. R. S. 58

4-12 The I.G. of Police and the District Magistrates, Districts
Furnish their opinion in the above matter.

From the I. G. of Police — Vol 8, Dy 27.1.08
467 /

Forwards a copy of para 8, Part I of the Eastern Bengal and Assam Gazette of 22nd Janry. 1908, Containing revised rules for the payment of the expenses of Complainants and witnesses attending Criminal Courts.

To the Registrar, Chief Court; The Comptroller, The District Magistrates, and the I. G. of Police No. J. 3002-12 Dy 28.3.08

Sanctions the payment of travelling allowances and batta to witnesses coming from outside the State.

G. R. S. 11] 190 7/8

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

Ch File No. 29-07.

FILE HEADING.

Travelling allowance and Batta to witnesses from outside the State in criminal case.

From

The Registrar of the Chief Court of Mysore

No. 400/23 Dated 15.7.07 Received 16.7.07

Diary No. 9169	Enclos.	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Requests that on account of the difficulty in securing the attendance of witnesses from outside the Mysore State in criminal cases, allowance may be paid as in Sessions trials

NOTES AND ORDERS.

1 The oldest reference on the subject, Judicial Courts circular no 1655-96 dated the 17th November 1896 is general in its terms. It seems to apply to all witnesses and complainants before Criminal Courts of whatever description. It was based on the fact,

NOTES—First sheet.

MGCPB—30,000—17 2-05.

Serial No.

that the duty of giving evidence in Criminal cases is a public duty and as such permits the grant of allowances only in exceptional cases. Under this circular, the fee for a day's attendance or for every day's journey of 10 miles to and from the Court is 4 annas for each witness ~~only~~ granted only when he is poor or has been put to considerable expense in attending the Court.

2— The said power of granting of allowances seems however to have remained discretionary with the Magistrate under section 544 of the Criminal Procedure Code but the High Court in their letter No 5191 of 22/3/98 recommended a scale of 1/5th travelling allowance and batta, different from the one prescribed under the Judicial Courts' Circular, to be paid by Govt to witnesses attending the Sessions Courts in all Sessions trials. They did not however propose to deal with the case of witnesses attending other Criminal Courts. Government in their approved of the proposal of the High Court and issued Govt Notification No 20926 - 9 9 4908 1/3/00 in the matter. (This was amended slightly later on by Notification No 15-31-1/9-724-967 of 1.2.04). Subsequently however, the point as to why a difference of procedure should

NOTE—Contin. sheet.

G. R. S. 12]
General and Revenue Secretariat.

To File No. 29 of 1907

Serial No.	
	prevail as between Sessions Courts and other criminal courts was considered and it was decided that no interference on the part of Govt was necessary as the Chief Court in their letter no 6960 of 20.6.03 had stated that the question of paying batta to witnesses attending Courts other than Sessions was reserved for further consideration and as the recommendation of the Chief Court regarding Sessions Courts was in accordance with the Madras and Bombay Practice the present reference seems to dispose of the case reserved for separate consideration by the Chief Court. If the Govt approves of the proposal of the Chief Court there would be similarity in this respect as between all Criminal Courts in the case of witnesses from outside the State to whose case the recommendation of the Chief Court is restricted. Subd for orders
	was 23/1/07 In this connection, reference is also invited to Courts file no 325-04 where the question of paying batta to witnesses in Criminal cases was considered by Government, the subject having been moved in Representative Assembly in 1904. But it was then decided that no change in the existing practice was necessary possible then just then. Subd for orders
	was 24/1/07

NOTE—Contn. sheet

GPB—50,000—25-2-07

G. R. S. 12]
General and Revenue Secretariat.

File No. 29 of 1907

Serial No.

4 Payment of batta to witnesses attending criminal courts from outside the Province, at the scale proposed, may, it seems, be sanctioned, in view of the considerable difficulty that is felt in securing their attendance - I would even go so far as to remove the restriction suggested by the Chief Court that in the case of subordinate magistrates, they have to obtain the sanction of the District magistrate for payment in each case - Sec 544 C. P. C. empowers a magistrate to order payment of batta to a witness, if he thinks fit. I fail to see any grounds on which this power is to be fettered by the imposition of restrictions -

5 In Civil cases, the batta due to a witness is sent to him before his attendance is required. There must necessarily be some delay in payment of batta to a witness in case a subordinate magistrate has to obtain the sanction

NOTE—Contn. sheet

GPB—50,000—25-2-07

G. R. S. 12]
General and Revenue Secretariat.

File No. 99 of 1907

Serial No.

of the District Magistrate for paying it to him. ~~If~~ Instead of getting it beforehand, if he does not get it even on the day he attends the Court and has to meet not only the expense of the journey to Court but also that of the return journey, out of his own pocket, and hope to recover all this at a future time, the inducement for him to attend the Court will be small indeed, and the difficulty that now exists will nevertheless continue, though in a smaller degree. I would therefore suggest that the batta be made payable to him immediately on his attending the Court and that the restriction now imposed on a Subordinate Magistrate that he should obtain the sanction of the District Magistrate in each case be removed. A Magistrate empowered to inflict fine ~~and~~ on a person and ~~take away~~ his liberty ~~by sending him to~~

NOTE—Contn. sheet

GPB—50,000—25-2-07

Serial No.

send him to prison may, I think, be safely entrusted with the power of deciding to what class a witness coming from outside the State belongs and paying batta to him as fixed in the scale ~~prescribed~~.

(Sd) 25.7.07 HMM

6 I agree in the remarks of the Asst Secy. The rule should be ~~so~~ such as will enable prompt payment being made personally when the witness is discharged. Remittance by post sometime after a witness attends & depart is very unsatisfactory & would leave room for defalcations &c. I think Magts may well be trusted to exercise the power ~~apply the rule~~ with discretion. Monthly ~~or~~ fortnightly a weekly reports of such payments made in the prescribed form may be prescribed to serve as a kind of check. Perhaps the receipt of the parties ~~witnesses~~ may be taken in triplicate - one to be sent kept in the court, one to

NOTE—Contn. sheet

GPB—50,000—25-2-07

Serial No.	
	be sent with the periodical report + one ~~to~~ with the contingent bill -
	(887). C88 3077 31/7
3603 31-7-1907	? May it not be advantageous to invite the opinions of Dep^{ty} Cs & Dy^{t} Police ?
	8 In any case the proposed rules may be restricted to cases of offences cognizable by the Police - 1 Aug 07
	9 Invite opinions of Dy Police & Dy Cs, Put up drafts. 1/8 2.8.07
	10 Drafts Subd nos 2.8.07. 3/8/07
	11 Drafts Subd as per instructions nos 5787 7.8.07 12 Issue 7.8.07
2	To the Inspector-General of Police in Mysore No J. 455 dated 9.8.07 Requests him to furnish his opinion regarding the proposal of the Chief Court.

NOTE—Contn. sheet

G. R. S. 12]
General and Revenue Secretariat.

Gb File No. 29 of 1907

Serial No.

3 To the Deputy Commissioners of the Districts
Nos. 9456-63 dated 9-8-07
Requests them to furnish their opinions regarding the proposal made by the Chief Court.

From.

4 The District magistrate of Kadur
N° 98 & 23.8.1907.
States that the proposal regarding the payment to witnesses summoned from beyond the State in Criminal cases, of the travelling allowance and batta on the same scale as that now fixed for the Sessions trial is a good one and may be adopted and that the Subordinate magistrates may themselves scrutinize the claim regarding class and make payment accordingly.

5 The District magistrate, Chitaldrug Distt.
N° 94 & 24.8.1907.
States that non-official witnesses may be paid batta and travelling allowances according to the proposed scale and the official witnesses according to the rate allowed to them in the Govt. in which they are employed and the same to be paid to the latter on the

NOTE—Contn. sheet

GPB—50,000—25-2-07

G. R. S. 12]
General and Revenue Secretariat.

Ch File No. 29 of 1907-08

Serial No.	
	production of bills Countersigned by their immediate superiors, and that the subordinate magistrates maybe authorised to disburse the Cash within the Sanctioned allotment.
6	The District magistrate of Hassan No 98 & 29.8.1907. States that the proposal is a good one and may be adopted, the previous sanction of the District magistrate for the payment being made incumbent.
7	The District Magistrate of Shimoga. No 136/Gu & 2.9.07. States that the proposal maybe adopted and that the District magistrate's sanction should be obtained for payment, but in urgent cases payments maybe made from the permanent advance at the disposal of the Subordinate magistrate subject to adjustment in due Course.
8	The Inspector General of Police in Mysore. No 1862/195 & 17.9.07. States that the payment to witnesses and Complainants, of the reasonable expenses incurred by them in attending as witnesses before Criminal Courts, would facilitate both Police and magisterial work a great deal and recommends the adoption of the proposal
9	The Deputy Commissioner Mysore District

NOTE—Contn sheet.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

Ex. File No. 29 of 1907-08.

Serial No.	
	Mysore District N° 217 & 3.10.(90)
	Expresses himself in favour of the proposed measure being adopted without making it necessary that the District Magistrate's sanction should be adopted and recommends that an imprest of Rs 25 be placed at the disposal of each magistrate for the purpose
10	The District magistrate of Bangalore. N° S. 167 & 10.10.07
	States that the proposal may be adopted making it incumbent upon subordinate magistrates to obtain the sanction of the District magistrate for payment of bhattas.
11	The Deputy Commissioner, Tumkur Dist States that the proposal may be adopted and that there is no necessity for the district magistrate's sanction being obtained as Sec 544 of the Criminal Pro. Code allows wide discretion to the presiding magistrate who alone will be in a position to judge the class to which the witness belongs.
12	The District magistrate, Kolar District N° 3718/172 & 30.12.(90)
	States that it is desirable to grant the proposed allowance and batta without waiting for the sanction of the District magistrate.

NOTE—Contn sheet.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

Gb File No. 29 of 1907-08.

Serial No.

14 The District Magistrates of all the Districts, and the Inspector General of Police in Mysore, have expressed themselves in favour of the proposal to grant to witnesses summoned from outside the State, travelling allowances and batta on the same scale as that now fixed for Sessions trials. (Only the District Magistrate of Chitaldrug restricts the above scale to non-official witnesses only, and states that as for official witnesses, the rates obtaining in the Govt. in which they are employed may be allowed and payments made according on the production of bills countersigned by their immediate superiors).

15 With regard to the question as to whether Subordinate magistrates should be required to obtain the sanction of the District Magistrate before payment in each case, the District Magistrates of Kadur, Chitaldrug, Mysore, Tumkur and Kolar are of opinion that in order to avoid unnecessary delay and inconvenience the Subordinate magistrate may be authorised to make such payments himself, after scrutinizing the claim with regard to the class under which each

NOTE—Contn sheet.

GPB-50.000—17-3-07

Serial No.

witness is to be brought. The District magistrate of Shimoga allows this arrangement only in urgent cases, which are also however to be reported for formal sanction in due course. The remaining two Distt. Magistrates of Hassan and Bangalore deem it expedient that the District magistrate should sanction the expenditure before each payment, so that he may exercise a certain amount of check and scrutiny over the same.

16 The District Magistrate of Mysore suggests that an imprest of Rs 25 may be placed at the disposal of each magistrate for the purpose.

17 The Inspector General of Police is of opinion that the parties summoning the witnesses should bear the costs in Criminal cases as in Civil cases, implying that Govt. must undertake to pay the witnesses who are summoned on their behalf (para 15) Submitted for orders.

Hes
11/1/08 SN

13/1/08

18 The question raised by the Chief Court relates to the payment of batta to witnesses attending Criminal Courts from outside the Mysore State.

19 These witnesses may

GPB—50 000—17-3-07

Serial No.

be (1) official witnesses (2) non-official witnesses. The District Magistrate of Chitaldroog is of opinion that T. A may be paid to the former at the rates allowed by the Govt to which they belong and that the non-official witnesses may be paid at the proposed scale - It does not seem necessary to make any such distinction - The proposed scale may be made applicable to all witnesses, official and non-official -

No 3) The Inspector General questions the soundness of the the theory that ~~not~~ complainants and witnesses are bound to attend criminal Courts as a public duty. He is for the payment of batta to all witnesses attending a Criminal Court and for the introduction into Mysore of rules similar to those in force in British India - This is a wide question ~~involving several issues~~ requiring to be viewed from several sides,

NOTE—Contn sheet.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

C5 File No. 19 of 190

Serial No.

one of them and not an unim-
portant one, being the side of finance
and may, if necessary, be dealt
with separately.

4) 4) As to whether Subordinate
Magistrates may be authorized to
pay batta to the witnesses, without
the previous sanction of the district
Magistrate in each case, all the
District Magistrates approve of
this being done except the District
Magistrates of Shimoga, Hassan
and Bangalore. The only reason
that is assigned ~~for~~ by the latter
for the view they take, is that a
certain amount of check and
scrutiny is to be exercised over
such payments. To satisfy this,
a return may be prescribed as
suggested by the Secretary in his
note dated the 30th July. The hard-
ship to the witness is very great
if he is not paid at once and there
should necessarily be some delay
if a reference is to be made to the
District Magistrate and his sanction

GPB—50 000—17-3-07

obtained before payment in each case

2 5) The Dist. Mag of Hassan suggests that power is to be reserved to magistrates to decline to pay batta to a witness who in their opinion has perjured or misbehaved himself or whose evidence is not material or who is believed to have not been summoned by the party calling him for any bona fides useful purpose. In the last two kinds of cases, the magistrate may under Sec 216 or 257 C.P.C require before summoning the witness that his reasonable expenses be deposited. In the other two kinds, the batta may be disallowed as in the case of witnesses attending Sessions Courts. (Vide Rule IV of the Rules of 1905)

23 (6) The Dist = Mag: Mysore, suggests that a Permanent Advance of Rs 25 - may be placed at the disposal of each Magistrate to meet the cost of witnesses. This may be considered.

Secy) 13.1.08.

GPB—50 000—17-3-07

G. R. S. 12]
General and Revenue
Secretariat.

File No. 71 of 190 7

Serial No.

1) Official witnesses – ie persons employed under other govts & attending Courts to depose to facts coming to their knowledge in the course of their official duties – may be paid travt rates to which they are entitled under their govts. These are mostly likely to be policemen & police officers & it is but right that they should be paid what they would get for journeys on duty in their own ~~Govt~~ territory. The payments in these cases may be made on bills sent up by the officer or official superior as the ~~case~~ case may be.

2) Non official witnesses may be paid at the rates fixed for Sessions Courts.

3) The payments should in case (2) be made immediately by the Magte who will take receipts in duplicate & triplicate. A Stt of such payments with details may be sent to the Dt Magte once a month. The payments will be made from the officer & courts' permanent advance & recouped on contingent bills.

4) Please put up a draft

NOTE—Contn sheet.

GPB—50,00017—3-07

Serial No.

Order on these lines.

18/1/08

18.1.08

27

Submitted with a Draft Order for approval.

23/1/08. 25.1.08

28 Draft order put up

Secy) 27.1.08.

Dewan through (SR)

27/1/08

5594/29.1.1908

30 The draft may be approved

27.1.08

Dewan

10.2.08

31 In the meanwhile the following Communication has been received

13(a) From the Inspector General of Police in Mysore N° 4868-467 dt 27.1.1908.

Forwards a copy of para 8, part I of the Eastern Bengal and Assam Police Gazette dated the 2nd January 1908, containing revised rules for the payment of the expenses of complainants and witnesses attending Criminal Courts.

32 Submitted. The file may be subd to Dewan

12/2/08. 17/2/08

33 It does not seem that our rules require any modification for the present in the light of the Assam Rules. Submitted.

Secy) 12.2.08

34 Dewan

88055/17.2.08

17.2.

35

36

17/2

28.3.08

NOTE—Contn sheet.

G.P.B.—50,000—17-3-07

G. R. S. 12]
General and Revenue
Secretariat.

Ct File No. 29 of 1907-08

Serial No. 13

To the Registrar, Chief Court
" Comptroller to Govt.
" District magistrates
" D.S. of Police

} No 3002-12 dt 25/3/08

Sanctions the payment of travelling allowance and batta to witnesses coming from outside the State

NOTE—Contn. sheet.

GPB—50,000—17-3-07

No. 400/23.

III 4/16/7/07.
OS 16/7.

J 169

Bangalore, 15th July 1907.

Ab 29-07

From,

V. A. Rajaratna Mudaliar Esquire,
Registrar, Chief Court of Mysore.

To,

C. S. Balasundaram Iyer Esq., B.A.,
C/49: Secretary to Government,
General and Revenue Departments.

Sir,

May 2 — Adverting to the late Judicial Commissioner's Circular No: 1685-96 dated 17th November 1869 in the matter of the payment of batta to witnesses attending Criminal Courts, I am directed to state that considerable difficulty is felt in securing the attendance of witnesses residing outside the Mysore State, which will be minimized if the witnesses are allowed reasonable travelling allowances and batta. In Sessions trials, all witnesses are paid allowances

and batta in accordance with the

following scale

	1st class	2nd class	3rd class	4th class
Travelling Allowances				
By rail	1st class fare	2nd class fare	3rd class fare	3rd class fare
By road	8 as per mile	4 as per mile	2 as per mile	6 pies per mile.
By sea or canal	Actual Expense of passage.			
Batta not to Exceed	3 Rupees per diem	1 Rupee per diem	8 annas per diem	4 annas per diem.

(Vide Government notification No: 9926/1949 Hy T.
dated 1st March 1900 and No: 157 J.J Hy X
24-96-7 dated 1st February 1904).

The Judges are of opinion that payment on the same scale may be made to all witnesses from outside the Mysore State attending Magistrates' Courts, Subordinate Magistrates being required to obtain the sanction of the District Magistrate for payment in Each case

Should the Government

approve of the proposal, I am to request that the necessary notification may be issued.

I have the honor to be,

Sir,

Your most obedient Servant;

A Raghatachariar

Registrar

G.R.S. 26] Mys 171

4

6b File No. 29-07

Serial No 2

Diary No. of letter replied to g 169

No. g 455

General and Rev. Secretariat

(65)

, *the* 190 .

To

The Inspector General of Police
in Mysore

Date of issue 9-8-07

Signed by Asst Mysore Resr

Sir,

I am Directed to invite reference to the late Judicial Commissioners Circular no 1685-96 dated the 17th Nov 1869 (~~Copy enclosed~~) in the matter of the payment of batta to witnesses attending the Criminal Courts and to state that on account of the considerable difficulty felt in securing the attendance of witnesses residing outside the Mysore State under the existing conditions, it is

May 2

over.

SUBJECT.

proposed to give them travelling allowances and batta on the same scale as that now fixed for sessions trials, and shewn hereunder

Vide Govt Notification 2nd Sept 1903 No 1531 & 2nd Aug 1904 No 1124-56-7

	1st class	2d class	3d class	4th class
Travelling Allowance ~~Special~~				
By rail	1st class fare	2nd class fare	3rd class fare	3rd class fare
By road	8 as per mile	4 as per mile	2 as per mile	6 pie per mile
By Sea or Canal	Actual expense of passage			
Batta not to exceed	3 Rs per diem	1 Re per diem	8 as per diem	4 as per diem

I am to request ~~to be~~ you to be so good as to furnish Government with your opinion in the matter. It may be considered among other ~~other~~ matters whether subordinate magistrate should be required to obtain the sanction of the District Magistrate before payment in each

List of enclosures,

Copied by

Examined by

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

case.

I have Et

Dear Secretary.

G.R.S. 26] Mys 172

[Type & copies] 6h

File No. 29-07

Serial No 3

Diary No. of letter replied to 969

No. 456-63

General and Rev. Secretariat

(68)

, *the* 190 .

To

The Deputy Comr of ———

(& Assistants)

Date of issue 9.8.07

Signed by [illegible]

Sir,

I am directed to invite reference to the late judicial Comr's circular no 1685-96 dated the 17th November 1869 (~~Copy enclosed~~) in the matter of the payment of batta to witnesses attending the Criminal Courts and to state that on account of the considerable difficulty felt in securing the attendance of witnesses residing outside the Mysore State under the existing conditions, it is

over.

Dep 2.

SUBJECT.

proposed to give them travelling allowances and batta on the same scale as that now fixed for sessions trials, and shewn ~~as under~~ below

Kerr Trans X

	1st class	2d class	3d class	4th class.
Travelling allowance				
By rail	1st class fare	2d class fare	3d class fare	3d class fare
By road	8as per mile	4as per mile	2as per mile	6 pies per mile
By sea or canal	Actual Expense of passage			
Batta not to exceed	3Rs per diem	1Rs per diem	8as per diem	4as per diem

Vide Govt Notification no 1226 dt 1/3/00 and 4949 dt 1.2.04. no 1531 dt 24-7-96

I am to request you to be so good as to submit your opinion in the matter. It may be considered among other matters whether Subordinate Magistrates should be required to obtain the sanction of the District Magistrate before payment

List of enclosures.

Copied by

Examined by

MGCPB—20,000-19-12—04.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

in each case.

for Secretary

5/8/07

J580

1907-08

From

The District Magistrate
Kadur district

To The Secretary to the
Govt of Mysore
Gen. & Rev. Depts.

Dated 23rd Augt 1907

Despatched 24th Augt 1907

Received

General No. 98.

No.

Enclosure No. nil

Furnishing opinion in re the granting of Travelling allowance & batta to witnesses attending Criminal Courts from their residence outside the Mysore State.

Cts file No 29-07
S.R.P. 4.

From

B.J.Kumarasami Naik Esquire, B.A.

Deputy Commissioner,

Kadur District.

To

C.S.Balasundaram Iyer Esquire, B.A. ...,

Secretary to the Government of Mysore,

General and Revenue Departments.

Dated Chikmagalur, the 23rd August 1907.

Sir,

With reference to your letter No.J456/Cts.29-07-3 dated 9th Inst. calling for my opinion in re the proposal of payment of travelling allowance and batta to witnesses attending the Criminal Courts from their residence outside the Mysore State, on the same scale as that now fixed for Sessions trials, I have the honor to state that the attendence of witnesses residing beyond the Province cannot be enforced at present, and cases decided without their evidence have often resulted in failure of justice. In view of facilities being offered for securing the evidence of such witnesses , it is highly desirable, that an adequate provision is made for the payment of batta and other expenses of passage to and from the Court by which they are summoned. The proposal, therefore, of giving such witnesses travelling allowances and batta on the same scale as that now fixed for the Sessions Trials, is, in my opinion, a good one, and may be adopted.

2. To avoid delay in the payment of the travelling allowances, I consider that Subordinate Magistrates need not be required to obtain the sanction of the District Magistrate, before payment in each case. They may, however, be made to ascertain, on due examination of each witness, the class under which he may properly be brought, and make payment accordingly, on their own responsibility,

attaching

C5 16/8/07

J 581

190 .

From

The Commissioner
Chitaldrug Dt

To The Secretary to the Govt of Mysore, Genl & Revenue Departments, Bangalore

Dated 24
Despatched } August '07
Received

General No. 94
No.

Enclosure No.

furnishes opinion in respect of the question of payment of batta to witnesses from outside the Mysore State attending Criminal Courts in that State &c.

Cb File No 29-07
R.P. 5.

94 12

Office of the District Magistrate
Chittalong District
Dated, Chittalong 24th August 1907.

M. Chengiah Chetty Esquire B.A.
District Magistrate
Chittalong District.

To

T. S. Balasundaram Iyer Esquire B.A.
Offg. Secretary to the Government of
H. H. the Maharaja of Mysore
General and Revenue Departments,
Bangalore.

Sir,

Adverting to your letter No. L. 461/etc 29-07-3 dated the 9th August 1907, I have the honor to state that the proposed scale of Travelling Allowance and batta may be paid to non-official witnesses coming from outside the state. As for the official witnesses summoned to appear in our Courts, the rate of travelling allowance and batta obtaining in the Government in which they are employed, may be given on the production of bills countersigned by their immediate Superiors.

As to the matter of payment of batta by Subordinate Courts, I am of opinion that Subordinate Magistrates may be authorized to disburse batta within the sanctioned allotment only by experience we have found the witnesses being put to much inconvenience for want of funds to return to their houses.

I have the honor to be
Sir
Your most obedient Servant
M Chengiah
District Magistrate

J651

Cbs 29 2.9 1907

189

FROM

K. R. Sreenivasa Iyengar Esqr. M.A.
District Magistrate
Hassan

To

C. S. Balasundram Iyer Esqr. B.A.
Secy. to Govt. General and
Revenue departments, Bangalore

Dated 29th August 1907.

Despatched

Received

General No. 98

No. S.

Enclosure No. Nil

Cbs File N° 29 of 1907
S.C. N°. 6.

J 665

1907-08

From G. Narain Rao Esquire
District Magistrate
Chingleput.

To C. S. Balasundaram Iyer Esq
Secretary to Government
General and Revenue Depart

Dated 2nd September 1907

Despatched

Received

General No. 136

J. No. 11.

Enclosure No.

Cts File No 29-07.
SL No. 7.

With reference to letter No. J457 dated 9th Ultimo, Cts 27-07-3 states that such witnesses may be given travelling allowances & batta on the scale now allowed to witnesses attending trials in Sessions Courts &c.

No. 136/J.11. 15

District Magistrate's Court
Shimoga, 2nd September 1907

From,

M. Narain Rao Esquire
District Magistrate
Shimoga

To,

C. S. Balasundaram Iyer Esquire, B.A.
Secretary to Government.
General and Revenue Departments.

Sir,

With reference to your letter No. J.457 dt 27-07-3 dated 9th Ultimo, inviting my opinion in the matter of payment of batta to witnesses attending Criminal Courts from outside the Mysore State, I have the honor to state that such witnesses may be given travelling allowances and batta on the scale now allowed to witnesses attending trials in Sessions Courts and that subordinate Magistrates should obtain the sanction of District Magistrates before making payment in each case. In urgent cases, the subordinate Magistrates may be authorized to make payments out of their permanent advance subject to adjustment in due course on receipt of bills duly sanctioned by the

District Magistrate.

I have the honor to be,

Sir,

Your most obedient Servant

Narayan Rao

District Magistrate

Shimoga

J 796

190 -0

FROM

The Inspector-General of Police in Mysore.

To

The Secretary to the Govt. of H. H. the Maharaja of Mysore, Gen. & Rev. Depts.

Cb file No. 29-07
& No. 8.

Dated 17

Despatched 17 September 1907

Received

General No. 1862
No. 195

Enclosure No.

Re the travelling allowances & batta to witnesses & ~~informants~~ complainants attending Criminal Courts.

GPB—1,000—3-1-07

17

No. 1862/195

OFFICE OF THE INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated Bangalore, 17th September 1907.

FROM

F. E. C. CARR, ESQ.,
Inspector-General of Police in Mysore.

To C. S. Balasundaram Iyer Esquire, B.A.,
~~K. S. CHANDRASEKHARA AIYAR, Esq., B.A.,~~
Offg. *Secretary to the Government of H. H. the Maharaja of Mysore,*
General and Revenue Departments.

SIR

Your letter No: J.455/Cts. 29-07-2 dated 9th August 1907 proposing to give witnesses coming from outside the Mysore Province, travelling allowance and batta on the same scale as that fixed for Sessions Courts, and inviting my opinion thereon.

I have the honor to state that the above reference reached me just as I was about to address Government on the same subject having received a communication from the District Superintendent of Police, Tumkur, complaining that witnesses were unwilling to give information to the Police for fear of having to attend Courts at their own expense.

2. As the subject is one of great importance both from a Police and Judicial point of view, I trust I need offer no apology for being somewhat discursive in my reply.

3. The question of payment by Government of the reasonable expenses incurred by complainants and witnesses attending Criminal Courts, for the purpose of judicial

enquiries

" Subject to any rules made by the Government, any criminal court may, if it thinks fit, order payment, on the part of Government of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code".

Expenses of complainants & Witnesses

enquiries &c, is not one of recent origin. It has been provided for by legal enactment (vide section 544 noted in the margin for ready reference) and local Governments have framed rules in consonance with this provision, according to local conditions and requirements.

4. The Governments of Bombay, Madras, Punjab, Allahabad, Central Provinces, Burma and Oudh (vide Sohoni's Procedure Code pages 645-651 where the rules are published "in extenso") have authorized the payment of batta, mileage or railway fare:-

(1) In all non-bailable offences.

(2) For witnesses summoned under section 540 C.P.C.

(3) In prosecutions instituted under the orders of a public officer.

(4) In prosecutions in furtherance of the interests of public service.

(5) In all warrant cases where the accused is not required to deposit the expenses of the witnesses under section 244 C.P.C.

and (6) In all cognizable cases.

5. It will be seen therefore that no distinction is drawn between Courts, all witnesses being paid their travelling and dietary expenses according to the discretion of the presiding Judge, or Magistrate.

6. On the same principle the Governments of Bengal, Punjab and Central Provinces have thought fit to provide for the payment of dieting and travelling allowances to parties and witnesses even when the case is under Police investigation.

7. The standing orders in regard to the witnesses attending Criminal Courts in Mysore are:-

(1) Judicial Commissioner's Circular No: 1685-96 dated 17-11-69 and Chief Court Circular No: 6254-5/73 dated

8th

15

3th December 1887 authorizing the payment of batta of 2 annas "per diem" or more subject to a maximum of 4 annas in all trials and enquiries, to such witnesses as are very poor, and to such as have been put to considerable expense in attending the Courts.

(2) Government Notifications Nos. 9926/949 dated 1-3-1900 and 1531 dated 1-2-1904 prescribing certain rates for witnesses.

8. The Mysore Government in laying down the above rule seem to have been guided by the principle that complainants and witnesses are bound to attend criminal courts as a public duty. The soundness of this principle in theory cannot be questioned-but in practice it bears very hardly on really poor witnesses and complainants; and makes it doubly difficult for the Police to persuade prosecution witnesses - especially those not personally interested in a case - to appear before the Courts to give evidence. So difficult in fact is the Police work in this direction, that in many instances, the cost of conveying witnesses to the Courts, and the cost of batta during halts, has to be borne by the Police Department, such costs being debited to"Secret Service". This is certainly not as it should be, and these charges should rightly be borne by the Judicial Department - complainants and witnesses being regularly reimbursed their reasonable expenses.

9. The Indian Police Commission, whose enquiry was mainly directed towards the ascertainment of the causes of the unpopularity of the Police, have delivered themselves as follows in discussing the attitude of the people in regard to investigation.

x x x x x x x

Para 32. " As to the attitude of the people in regard to " investigation of offences and the detection of offenders, " there can be no doubt that it differs widely from the attitude " of the people of England. The people of India are not generally actively

" actively on the side of law and order; and unless they are " sufferers from the offence, their attitude is generally at " the very best one of silent neutrality; they are not inclined " actively to assist the officers of the law. But, on the one " hand, it must be remembered that the conception of public " interest and public duty has not been nearly so fully developed " in India as in England. On the other hand, it must be re- " membered that a Police investigation always must entail some " measure of worry and annoyance, that the prosecution of cases " involves interruption of village work and of easy village " life and often also very considerable trouble and expense, " and that these inducements to silence and neutrality have been " greatly strengthened by the defective character of Police and " Magisterial work".

10. The above observations apply with equal force to Mysore where the same laws are in force as in British India.

11. The defective character of Police and Magisterial work as remarked upon by the Police Commission may perhaps be to blame to a certain extent; but on the other hand much of the unpopularity of the Police, and a great deal of the unwillingness of the public to aid the Police, is traceable to the fact that witnesses recognize that they will not be recouped in any way, for the personal inconvenience and expense to which they will be put by attending the courts of justice.

12. The administration of justice is sufficiently difficult as it is, both as regards Police investigations and judicial inquiries - but if to all other drawbacks are added recalcitrant witnesses and unwilling evidence, it can be readily understood that justice will more oftentimes than not be defeated.

13. The inhabitants of the Mysore State are mostly agriculturalists, of tardy civilization and limited education, and it is hopeless to expect these ordinary Mysore bucolics, <u>unless they have some personal concern in a criminal case</u>, to leave their homes, in season or out of season, during seed time or

harvest

harvest, and to undertake long journeys, dance weary attendance on Courts, and not infrequently submit themselves to unsavoury and insulting examinations by irresponsible Vakeels; from the pure love of truth, and a wish to aid Government to administer justice.

14. Government maintain a well-organized and a well-paid machinery for the administration of justice, and I think they should not grudge to help its working by securing more willing aid from the public.

15. There should be close affinity between the Civil and Criminal rules in this matter. The former insists upon each party paying their own costs, why not the latter?

16. I therefore most strongly recommend that the rules in force in British India may be introduced into Mysore.

I have the honor to be,

Sir,

Your most obedient servant,

Inspector General of Police.

J 986

1907-08

From

M. Kantaraj Urs, Esq., B.A.
Dy. Commissioner,
Mysore District.

To

C. S. Balasubramanya Iyer, Esq., B.A.
Secy. to the Govt. of H. H. the Maharaja of Mysore, Gen. & Rev. Depts.

Cb file No 29-07
R No. 9.

Dated 3rd
Despatched 4th } October 1907
Received

General No. 217.
No.

Enclosure No.

Subject.

Submitting opinion in re the payment of batta to the witnesses in Criminal cases &c

72

No. 217
Enc. No. nil

OFFICE OF THE Deputy Commissioner & District Magistrate
MYSORE DISTRICT,

Dated ~~Mysore~~ Camp 3rd October 1907.

To

C. S. Balasundram Iyer Esq., B.A.

SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

With reference to your letter no J 459/cts 27-07-3 dated 9th August 1907, Calling for opinion in the matter of fixing Travelling allowances or batta to witnesses Comming from outside the Mysore State, I have the honor to state that the proposal is welcome by all the Magistrates of the District as it meets a long felt difficulty and the rates proposed are also fair and reasonable. When the scales are once fixed, there seems to be no necessity for obtaining the sanction of the District Magistrate for the payment of the same as it involves only a needless delay and Correspondence.

I

I would suggest that an imprest of Rs 25/- may be placed at the disposal of each Magistrate for the purpose as no money is held by Magistrates as such.

I have the honorable
Sir
Your most obedient servant

W Bruce Kennedy
for District Magistrate
of Mayyone

J 1023

1907-08

From The District Magistrate.
Bangalore District.

To The Offg: Secretary to the Govt. of Mysore
Genl & Rev: Departments.

Dated 10th
Despatched 11th } October 1907.

Received

General No.

J. No. 167

Enclosure No.

Cts file No 29-07.
SC No 10.

Secy's letter No. J. 463 dated
Cts: 29-07-3
9/10th August-1907.

Submits opinion on the proposal to give travelling allowances and batta to witnesses attending our Courts from outside the Mysore State, on the same scale as that now fixed for Sessions trials.

S. No. 167 24

Bangalore District.

District Magistrate's Office.

Bangalore 10th October 1907.

From,

D. Devaraj Urs Esquire,
District Magistrate.
Bangalore District.

To

C.S. Balasundaram Iyer Esquire,
BA.
Offg Secretary to the Government
of Mysore
General & Revenue Departments.

Sir,

With reference to your letter No. J. 463 dated 9th/10th August 1907, calling for my opinion on the proposal to give travelling allowances and batta to witnesses attending our Courts from outside the Mysore State on the

Cts. 29-07-3

the same scale as that now fixed for Sessions trials, I have the honor to state that the proposal is good and facilitates the attendance of witnesses from outside the State. There can be no objection to the giving of batta and allowances to the witnesses coming from outside the state, subject to the conditions laid down in Government-order No. 9926 dated 11th March 1900 J. 949 and No. 1531 dated 1st February 1904 J. 24-96-7.

2, As regards the point whether the Subordinate Magistrates should be required to obtain sanction of the District Magistrate before payment in each case,

I have the honor to observe
that previous sanction is necessary
before payment, so that a strict
scrutiny may be exercised over
the expenditure.

I have the honor to be,
Sir,
Your most obedient Servant

Emplumpthelly

for District Magistrate

hmly

J 1231

190

From

K. Doraswami Iyer Esq^r
Deputy Commissioner
Tumkur Dist

To

C. S. Balasundram Iyer Esq^r
Secretary to Govt -
Genl & Rev. Depts
Bangalore

Dated 1st November 1907

Despatched

Received

General No. 247
No.

Enclosure No.

Stating opinion in the matter of payment of batta to witnesses attending criminal courts from outside the mofussil State.

Cts File No 29-07
Sl No 11.

27

Tumkur District Deputy
Commissioner's office.

Dated 1st November 1907.

From.

K. Doraswami Iyer Esquire
Deputy Commissioner
Tumkur District

To.

C. S. Balasundaram Iyer Esqr. B.A.
Secretary to the Govt of H. H.
the Maharaja of Mysore
General and Revenue Departments.
Bangalore

Sir,

In reply to your letter No. J 462 / As 29-07-3 of the 9th August last calling for opinion in the matter of payment of batta to witnesses attending criminal Courts, I have the honor to state that the rates therein quoted which are on the same scale as those now fixed for Sessions trials are liberal enough to meet the expenses of the different classes of witnesses, that attend Courts from outside the mysore state at their own expense,

I do

I do not consider it necessary that Subordinate magistrates should be required to obtain the Sanction of the District magistrate before payment in each case as the provisions of Section 544 Criminal procedure Code are wide enough to admit of the required discretion in the matter to be left to be exercised by the magistrates of Original Courts who alone will be in a position to judge of the class of the travelling allowance and batta to which a witness appearing before them is to be considered entitled.

I have the honor to be
Sir,
Your most obedient Servant

M. Sreenivasachari
for District magistrate

29

III 52/1908

S

Cp / W / 1907 J 1710

From

The District Magistrate,
Kolar District

To

The Secretary to the Govt
of Mysore,
Gl & Rev: Dept.

Dated

Despatched 30th Dec 07

Received

General No. 3718

No. 172

Enclosure No. —

C/S File No 29-07
S.N. 12.

3718
172.

Office of the District Magistrate,
Dated Kolar 30th Dec 07

From,

C. Srikantaiya Aiyar Esqre B.A. B.L.,
District Magistrate,
Kolar District.

To.

C. S. Balasundaram Iyer Esqre B.A.,
Offg. Secretary to the Government
of Mysore
General & Revenue Depts.

Sir,

Adverting to your letter No.
J.460/Ct. 29-07-3 dated 9th August
1907, Calling for my opinion in
the matter of payment of
batta to witnesses coming from
outside the Mysore State &c, I
have the honor to State that to
secure the attendance of witnesses
more promptly than at present,
it is desirable to give them
travelling allowances and batta
as proposed in your letter on
the same scale fixed for those
attending Sessions trial and that
the Subordinate Magistrates may
be

be authorised to pay such travelling allowances and batta without waiting for the sanction of the District Magis-trate, thereby saving unnecessary delay and inconvenience to the witnesses concerned who, in majority of the cases, are poor and deserving.

I have the honor to be,
Sir,
Your most obedient servant,

R Srinivasa Rao
For District Magistrate
Kolar District

Ab 28/1/08 J 1931

190 -0 .

FROM

The Inspector-General of
Police in Mysore.

To

The Secretary to the Govt. of H. H.
the Maharaja of Mysore,
Gen. & Rev. Depts.

Ab File N° 29-07
Sec N° 13 (a)

Dated 23

Despatched 27 January 1908

Received

General No. 4868
No. 467

16/2/1

Enclosure No. 1

Forwards copy of Para 8, Pt. I. of the Eastern Bengal & Assam Police Gazette of 2nd January 1908 containing revised rules for the payment of the expenses of complainants and witnesses attending Criminal Courts.

GPB—800—11-12-07

31

No. 4868 Ex/1
467

OFFICE OF THE INSPECTOR-GENERAL OF POLICE IN MYSORE,
Camp Sorab
Dated ~~Bangalore~~, 23 January 190 8
27

FROM

F. E. C. Carr Esquire,

Inspector-General of Police in Mysore.

To

C. S. Balasundaram Iyer Esq., B.A.,

Offg. *Secretary to the Government of H. H. the Maharaja of Mysore,*
General and Revenue Departments.

SIR,

In continuation of this office letter No. 1862/195 dated 17th September 1907, I have the honour to forward herewith for the information of Government copy of para 8, Part I of the Eastern Bengal and Assam Police Gazette dated the 2nd January 1908, containing revised rules for the payment of the expenses of complainants and witnesses attending Criminal Courts.

I have the honour to be,

Sir,

Your most obedient servant,

F. C. Carr

Inspector General of Police.

Csu

Copy of para 8 Part I of the Eastern Bengal and Assam Police Gazette dated the 2nd January 1908, containg revised rules for the payment of the expenses of complainants and witnesses attending Criminal Courts.

---

(1) The Criminal Courts are authorised to pay, at the rates specified below, the expenses (a) of complainants or witnesses whether for the prosecution or for the defence, (1) in cases in which the prosecution is instituted, or carried on by, or under the orders or with the sanction of Government, or of any Judge, Magistrate, or other public officer, or in which it shall appear to the presiding officer to be directly in furtherance of the interests of the public service; and (2) in all cases entered in column 5 of Schedule II appended to the Criminal Procedure Code as not bailable; and (b) of witnesses in all cases in which they are compelled by the Magistrate of his own motion to attend under the provisions of Section 540 of the Code.

(2) Complainants and witnesses entitled to be paid their expenses shall receive a diet allowance, which for labourers of the poorer class may be calculated at 3 annas a day, and for ordinary cultivators and other persons of their class at four annas a day. Higher rates may be allowed in the case of persons of superior rank subject to a maximum of Rs 5/- a day; provided that persons whose ordinary income does not exceed Rs 100/- a month shall not be entitled to get more than eight annas a day; and that the rate allowed to any person shall not exceed the probable daily cost of his board and lodging.

(3) (a) Complainants and witnesses performing the journey, or part of the journey, by rail or steamer, may be allowed their actual fares each way according to the class by which persons of their rank and station in life would ordinarily travel. In determining the class by which a person would ordi-

narily

ordinarily travel, regard should be had to the standard laid down in Chapter LII of the Civil Service Regulations.

(b) Charges for toll at ferries will be allowed at the authorized rates to the extent to which they have actually been incurred.

(c) Other travelling expenses will be given only when the journey could not have been performed on foot, or in the case of persons whose age, position, and habits of life render it impossible for them to walk.

In such cases, in addition to the allowances permitted by the preceding rules, travelling allowance shall be given at the following rates:-

(i) When the journey is by any kind of conveyance by road , the actual reasonable conveyance charge up to a maximum limit of 4 annas a mile.

(ii) In districts where the usual mode of travelling is by water, the actual expenses incurred for boat-hire up to a maximum of ₹ 2/- a day.

(d) In hill districts, where it is customary for respectable persons to be accompanied by a man carrying their baggage, when such a person is summoned from a distance of more than five miles, he may be allowed the actual cost incurred for the hire of one coolie.

(4) If the court is of opinion that any person following any trade or profession or engaged in any commercial undertaking has suffered substantial loss by reason of his attendance as a witness or complainant, he may be allowed, in addition to the diet money and travelling expenses permissible under the preceding rules, compensation not exceeding ₹ 2/- for each day or part of a day of enforced absence from his work.

(5) To witnesses following any profession, such as medicine or law, a fee according to circumstances, not exceeding ₹ 16/-, may be paid in addition to the ordinary diet allowance, when they are called upon to give evidence involving the expression of professional opinion.

(6) Notwithstanding the above rules, Government servants when

summoned to give evidence in their public capacity shall receive nothing from the Court.. In this case they are entitled to travelling allowance under the Civil Service Regulations on producing a certificate of attendance granted by the Court. Government servants when summoned to give evidence in their private capacity may be paid by the Court and may retain any travelling allowance due to persons of corresponding rank under these rules, but no diet allowance, and they shall not be entitled to any travelling allowance under the Civil Service Regulations.

(7) Officers will be held responsible that parties of witnesses are brought to Court together as far as possible so as to save expenses. The hire of more than one boat shall not be allowed in one case, unless the presiding officer is satisfied that the witnesses could not have arranged to come together.

(8) The number of days for which diet allowance should be granted will be determined by the officer ordering payment in each case.

(9) For this purpose and for regulating the reimbursement of tolls paid, a table shall be prepared and kept in each Court, showing the distance of each thana from the sadr station and subordinate stations, the number of intermediate ferries to be crossed, and the authorised rates of charges for tolls at each of these ferries , the existence or absence of roads or waterways being also noted in the table.

(10) These rules shall apply also to witnesses summoned to give evidence in enquiries held by Civil Courts under Chapter XXXV of the Code of Criminal Procedure.

Inspector General of Police.

G.R.S. 28]

2 Copies (Priv) 35

Cts File No. 29-07
Serial No. 13

Diary No. of letter replied to J 169.

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 190

Date of issue

Signed by

READ—

Judicial Commissioner's Circular No 1685-96 dated the 17th Nov. 1869 laying down rules for regulating the payment of expenses of witnesses attending Courts to give evidence in Criminal cases.

2. Letter No. 400/23 dated the 15th July 1907, from the Registrar of the Chief Court of Mysore, proposing that, as considerable difficulty is felt in securing the attendance of witnesses residing outside the State, in criminal cases, travelling allowances and batta on the same scale as that fixed for witnesses in Sessions trials may be paid to them and that Subordinate Magistrates may be required to obtain the sanction of the Dt. Mgte. for payment in each case.

3. The following letters from the I.G. of Police & the Deputy Commissioners of Districts furnishing their

Copied J.A. 25/3. Recd 27/3

GPB—7,000—1-3-07

Recd 27/3

opinions 36 in the matter, as called for in the Secretary's letter No J 455/Cts. 29-07-2 dated the 9th August 1907 :—

(i) ~~(i)~~ Letter No 1862/195 dated the 17th Sept. 1907 from the I. G. of Police;

(ii) ~~(ii)~~ Letter No 98 dated the 23rd/24th August 1907 from the District Magistrate, Kadur;

(iii) ~~(iii)~~ Letter No 94 dated 24th August 1907 from the Dt. Mgte., Chitaldroog;

(iv) ~~(iv)~~ Letter No 98/S dated the 29th/31st Aug. 1907 from the Dt. Mgte., Hassan;

(v) ~~(v)~~ Letter No 136/J11 dated the 2nd Sept. 1907 from the Dt. Mgte., Shimoga;

(vi) Letter No 217 dated the 3rd Oct. 1907 from the Dt. Mgte., Mysore;

(vii) Letter No S167 ~~dated the~~ dated the 10/11th Oct. 1907 from the Dt. Mgte., Bangalore;

(viii) Letter No 247 dated the 1st Nov. 1907 from the Dt. Mgte., Tumkur;

(ix) Letter No 3718/172 dated the 30th Dec. 1907 from the Dt. Mgte., Kolar.

—

Order thereon - No J-3002-12/Cts 29-07-13 dated the 28th March 1908

The Inspector General of Police

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

and all the District Magistrates consulted have expressed themselves in favour of the proposal made by the Chief Court viz., to grant (to Havelis Aliens and those residing outside the State attending witnesses (summoned by Criminal Courts from outside the State, in the State, on getting allowances and batta on the same scale as that now fixed for Sessions trials. The Dt. Mgte. of Chitaldroog, would however, restrict the scale to non-official witnesses attending the Courts & states that in the case of official witnesses the rates of t.a obtaining in the Govt. in which they are employed may be given on the production of bills countersigned by their immediate superiors.

As regard to whether Subordinate Mgtes should obtain the sanction of the Dt. Mgte. before payment in each case, the Dt. Mgtes. of Kadur, Chitaldroog, Mysore & Tumkur and Kolar are of opinion that no such sanction is necessary as it would involve needless delay & inconvenience and that the Subordinate Magistrates may be authorised to make such payments at their own discretion after scrutinising the

Govt. may be pleased to issue necessary instructions in the matter.

a J.A.

claim with [redacted] regard to the class under which each witness is to be brought; while the Dt. Mgte. of Shimoga would permit ~~allows~~ restricts such ~~arrangement~~ payment only in urgent cases; ~~and~~ the Dt. Mgtes. of Hassan and Bangalore are of opinion that the sanction of the Dt. Mgte. is necessary so that a strict scrutiny may be exercised over the expenditure, and the former further urges that Subordinate Mgtes should be at liberty to reject the claim for Travelling Allowances in cases where witnesses have perjured or misbehaved themselves or where their evidence is not material or there is reason to believe that they have not been summoned by the party calling them for any bona fide useful purpose. /...

On a careful consideration of the question, Government are pleased to lay down the following rules in the matter :—

(i) Official witnesses i.e., persons ~~employed under~~ in the service of other Governments and attending Criminal Courts in the State to depose to facts coming to their Knowledge in the course of their official duties shall be paid Travelling Allowances + batta at rates to which they are entitled under their respective

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Govts., the payment in each case being made upon a submission of a bills by the Officer concerned for/to Official Superi as ~~the case may be~~.

(ii) Non-Official witnesses shall be paid allowances and batta at the following rates which are already fixed for witnesses attending Sessions trials under G.O. No. 9926/J.949 dated the 1st March 1900 & No. 1531/J.24-96-7 dated 1st February 1904:—

Travelling Allowances	First Class. Scale	Second Class. Scale	Third Class. Scale	Fourth Class Scale
By Rail.	First Class Fare	Second Class Fare	Third Class Fare	Third Class Fare
By Road.	8 as. per mile	4 as. per mile	2 as. per mile	6 pies per mile
By Sea or Canal	Actual Expense of passage.			
Batta not to exceed	Rs 3 per diem	Re 1 per diem	As. 8 per diem	As. 4 per diem

The payments should in case (ii) be made immediately by the Magistrate whose Court the witness attends, from the Court's permanent advance and recouped on Contingent bills; a statement of all such payments with details ~~being~~ should be submitted to the Govt. ~~Agte~~ once a month & receipts for payments made ~~become~~ to be taken in triplicate — one to be kept in

and a statement of all such payments with details should be submitted to the Dist. Mag. once a month. Receipts for payments made should be

MGCPB—30,000—5-4-05.

the Court, one to be sent with the monthly report & one with the Contingent bill.

Secretary. 27/11/08

Print.

To

The Registrar of the Chief Court;

The Comptroller;

& All District Magistrates.

& D.G. of Police in Mysore

DCS 24/1/08

28/1/08

AD—

Judicial Commissioner's Circular No. 1685-96, dated the 17th November 1869, laying n rules for regulating the payment of expenses of witnesses attending Courts to give dence in Criminal Cases.

2. Letter No. 400—23, dated the 15th July 1907, from the Registrar of the Chief Court of Mysore, proposing that, as considerable difficulty is felt in securing in criminal cases the attendance of witnesses residing outside the State, travelling allowances and batta on the same scale as that fixed for witnesses in Sessions trials may be paid to them and that subordinate Magistrates may be required to obtain the sanction of the District Magistrate for payment in each case.

3. The following letters from the Inspector-General of Police and the Deputy Commissioners of districts furnishing their opinion in the matter, as called for in the Secretary's letter No. J. 455—Cts. 29-07-2, dated the 9th August 1907 :—

i. Letter No. 98, dated the 23rd—24th August 1907, from the District Magistrate, Kadur;

ii. Letter No. 94, dated the 24th August 1907, from the District Magistrate, Chitaldrug;

iii. Letter No. 98—S, dated the 29th August 1907, from the District Magistrate, Hassan;

iv. Letter No. 136—J. 11, dated the 2nd September 1907, from the District Magistrate, Shimoga;

v. Letter No. 1862—195, dated the 17th September 1907, from the Inspector-General of Police;

vi. Letter No. 217, dated the 3rd October 1907, from the District Magistrate, Mysore;

vii. Letter No. S. 167, dated the 10th October 1907, from the District Magistrate, Bangalore;

viii. Letter No. 247, dated the 1st November 1907, from the District Magistrate, Tumkur;

ix. Letter No. 3718—172, dated the 30th December 1907, from the District Magistrate, Kolar.

No. J. 3002-12—Cts. 29-07-13, dated Bangalore, 28th March 1908.

Order thereon.—The Inspector-General of Police and all the District Magistrates consulted have expressed themselves in favor of the proposal made by the Chief Court, *viz.*, to grant travelling allowances and batta to witnesses residing outside the State attending Criminal Courts in the State on the same scale as that now fixed for witnesses attending Sessions trials. The District Magistrate of Chitaldrug would, however, restrict the scale to non-official witnesses attending the Courts and states that in the case of official witnesses the rates of travelling allowance obtaining in the Government in which they are employed may be given on the production of bills countersigned by their immediate superiors.

As to whether subordinate Magistrates should obtain the sanction of the District Magistrate before payment in each case the District Magistrates of Kadur, Chitaldrug, Mysore, Tumkur and Kolar are of opinion that no such sanction is necessary, as it would involve needless delay and inconvenience and that the subordinate Magistrates may be authorized to make such payments at their own discretion, after scrutinising the claim with regard to the class under which each witness is to be brought; while the District Magistrate of Shimoga would permit such payment only in urgent cases. The District Magistrates of Hassan and Bangalore are of opinion that the sanction of the District Magistrate is necessary so that a strict scrutiny may be exercised over the expenditure and the former further urges that subordinate Magistrates should be at liberty to reject the claim for travelling allowances in cases where witnesses have perjured or misbehaved themselves or where their evidence is not material or there is reason to believe that they have not been summoned by the party calling them for any *bonâ fide* useful purpose.

On a careful consideration of the question, Government are pleased to lay down the following rules in the matter :—

(i) Official witnesses *i. e.*, persons in the service of other Governments and attending Criminal Courts in the State to depose to facts coming to their

Judicial (Courts) dated 28th March 1908.

knowledge in the course of their official duties, shall be paid travelling allowances and batta at rates to which they are entitled under their respective Governments, the payment in each case being made upon submission of a bill by the officer concerned or his official superior.

(ii) Non-official witnesses shall be paid allowances and batta at the following rates which are those fixed for witnesses attending Sessions trials under Government Order No. 9926—J. 949, dated the 1st March 1900. and No. 1531—J. 24-96-7, dated 1st February 1904.

Travelling allowances	First class scale	Second class scale	Third class scale	Fourth class scale
By rail	First class fare	Second class fare	Third class fare	Third class fare
By road	8 as. per mile	4 as. per mile	2 as. per mile	6 pies per mile
By sea or canal ...	Actual expense of passage			
Batta not to exceed ...	Rs. 3 per diem	Re. 1 per diem	As. 8 per diem	As. 4 per diem

The payments should in case (ii) be made immediately by the Magistrate whose Court the witness attends from the Court's permanent advance and recouped on contingent bills; and a statement of all such payments with details should be submitted to the District Magistrate once a month. Receipts for payments made should be taken in triplicate—one to be kept in the Court, one to be sent with the monthly report and one with the contingent bill.

C. S. BALASUNDARAM IYER,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Registrar of the Chief Court of Mysore.
The Comptroller, Mysore Government.
The District Magistrates.
The Inspector-General of Police in Mysore.

Exd.—c. s.

1907-08

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

JUDICIAL (COURTS)

PROCEEDINGS,

Dated 28th March 1908

No. J. 3002-12
Cts. 29-07-13

Passes orders in the matter of payment of travelling allowances and batta to witnesses residing outside the State, etc.

GPB—14-4-08—550